

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

GOLDEN BETHUNE-HILL, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF ELECTIONS,
et al.,

Defendants.

Civil Action No. 3:14-cv-00852-REP-
GBL-BMK

**[PROPOSED] JOINT INITIAL PRETRIAL, SCHEDULING, AND DISCOVERY
PLAN**

Pursuant to the Court’s oral instruction issued at the February 5, 2015 status conference, Plaintiffs, Defendants, and Intervenor-Defendants (collectively, the “Parties”, and individually, a “Party”) propose this Joint Initial Pretrial, Scheduling, and Discovery Plan.

1. Nature of the Case

Plaintiffs bring this action pursuant to 42 U.S.C. § 1983, alleging that Virginia’s House of Delegates Districts 63, 69, 70, 71, 74, 75, 77, 80, 89, 90, 92, and 95 constitute racial gerrymanders, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Intervenor-Defendants deny Plaintiffs’ allegations. Defendants are scheduled to file their Answer on **February 18, 2015**. Dkt. No. 20.

2. Results of Rule 26(f) Conference

The Parties conducted a Rule 26(f) conference on February 6, 2015, during which the following topics were discussed:

a. Related cases

Plaintiffs believe this case is related to *Page v. Virginia State Board of Elections*, No. 3:13-cv-678, and indicated as much on their Civil Cover Sheet, Dkt. No. 1-1; this case was subsequently assigned to the same District Court Judge who presided in *Page*. Defendants disagree that *Page* is a related case.

b. Electronically Stored Information

All relevant information which is available on electronic storage media is discoverable, whether readily readable (“active”) or “deleted” but recoverable. In the event a Party believes producing electronically stored information will be overly burdensome or otherwise prohibitive, the Parties shall confer and seek an appropriate resolution before bringing the issue to the Court, if necessary.

c. Privilege Issues

Intervenor-Defendants anticipate that, depending on the course of discovery, the issue of legislative privilege may arise. Any claims of privilege that arise will be addressed by counsel, who will request that the Court enter orders by consent or by adjudication if the matters cannot be resolved by agreement.

3. Deadlines for Joining Additional Parties

The Parties agree that a reasonable deadline for joining additional parties is 10 days from the date of this filing.

4. ADR Method

The Parties believe that this case is not amenable to mediation.

5. Discovery Plan

a. Rule 26(a)(1) Exchange

The Parties shall disclose their Rule 26(a)(1) material no later than **February 20, 2015**.

b. Expert Discovery

Plaintiffs must serve expert report(s) no later than **March 11, 2015**, Defendants and Intervenor-Defendants must serve their expert report(s) no later than **April 10, 2015**, and Plaintiffs may serve any expert reply report(s) no later than **April 24, 2015**.

c. Written Discovery

The Parties agree that all written discovery shall be subject to an expedited, 10 day deadline for objections and 15-day response deadline. When necessary, the Parties will work in good faith to agree to reasonable extensions of these deadlines. Privilege logs, if necessary, shall be subject to a 21-day deadline. The number of interrogatories and requests for production each Party may serve on any other Party shall be governed by the Federal Rules of Civil Procedure.

d. Depositions

The number and duration of depositions shall be governed by Federal Rule of Civil Procedure 30.

6. Discovery completion date

The discovery cutoff shall be **May 22, 2015**.

7. Jury trial or not

The Parties agree that this case will be heard by the Panel and is not amenable to a jury trial.

8. Dispositive motions

All dispositive motions shall be filed no later than **May 28, 2015**.

9. Motions *in Limine*

All motions *in limine* shall be filed on or later than **June 5, 2015**, and heard no later than **June 26, 2015**.

10. Written Stipulations

Counsel for each Party shall meet and confer in a good faith effort to enter into written stipulations of uncontested facts no later than **June 12, 2015**. Written stipulations shall be signed by each counsel and filed with the Clerk no later than **June 26, 2015**.

11. Discovery Designations and Summaries

- a. No later than **June 16, 2015**, all Parties shall serve on all other counsel a list of all discovery materials, specifying the appropriate portions thereof, that the Party intends to offer at trial.
- b. No later than **June 23, 2015**, all Parties shall serve on all counsel a list of all “fairness” or rebuttal designations and amended summaries, as appropriate.
- c. No later than **June 26, 2015**, any objection to the introduction of any designation or parts thereof or any summary shall be filed by each of the Parties with the Clerk.
- d. No later than **June 29, 2015**, counsel shall confer to resolve objections to discovery designations. Any objections not resolved shall be determined at the Final Pretrial Conference.
- e. No later than **July 2, 2015**, the Party offering the designated discovery shall provide opposing counsel, the Clerk, and the Court with a conformed set of all designated discovery.

- f. No later than **July 3, 2015**, all summaries of deposition testimony to which no objection has been made shall be filed with the Clerk, with a copy delivered to the Court.

12. Witness and Exhibit Lists

- a. Plaintiff shall file a list of all witnesses intended to be called at trial, as well as a list of proposed exhibits, no later than **June 19, 2015**.
- b. Defendants and Intervenor-Defendants shall file a list of all witnesses intended to be called at trial, as well as a list of proposed exhibits, no later than **June 22, 2015**.
- c. Any objections to exhibits shall be filed with the Clerk no later than **June 25, 2015**.
- d. Each Party shall deliver to the Clerk four sets of pre-marked, indexed exhibits on **July 6, 2015**.

13. Trial Briefs

Each Party shall file a trial brief with the Clerk no later than **June 26, 2015**.

14. Trial Date

Trial is scheduled to commence on **July 7, 2015** at 10:00 a.m. at the Albert V. Bryan United States Courthouse located at 401 Courthouse Square, Alexandria, VA 22314.

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Dated: February 12, 2015

Respectfully submitted,

By: /s/Anthony F. Troy (by JKR with permission)

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William J. Howell*

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February, 2015, I caused the foregoing to be electronically filed with the Clerk of this Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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Respectfully submitted,

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